

JERSEY / JUDGMENT

# Troalic v AG [2000] JRC 102 (12 June 2000)

**[2000] JRC 102**

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## JUDGMENT

THE COMMISSIONER: 1. This is an appeal against a sentence passed by the Royal Court on 23 rd February, 2000, imposing a fine of £2,700 or 2 months' imprisonment consecutive, in default of payment, in respect of each of 3 counts relating to an infraction of Article 14(1)(a) of the Housing (Jersey) Law, 1949 , as amended (counts 1-3). Two other counts (counts 4 & 5) relating to infractions of Article 7(1) of the Housing (Jersey) Law, 1949 , on which the appellant was fined £200 or 1 week's imprisonment in default in respect of each count, are not appealed. Today's appeal, therefore, relates solely to counts 1, 2 and 3. 2. The issue before us is whether, in sentencing for a housing infraction of this sort, where mens rea is not in issue this Court should, in effect, over-rule the Inferior Number and say that the sentencing Court - in addition to removing from the appellant the illicit profit made from the transaction - should also have imposed a penalty to signify the disapproval of the Court of persons who break the Housing Law in the way the defendant did. We have decided, however, that that would be the wrong approach for an appellate Court. 3. We first had to ask ourselves what was the proper figure for the illicit profit made by the defendant during the relevant period, i.e. the period to which the charges relate. 4. Rather than the figures for the illicit profit which the Crown put before the Inferior Number - at very short notice we would add, because the defendant changed her plea from not guilty to guilty, which meant that the case had to come on quickly resulting in difficulties for both counsel - we think the proper total figure is £5,500. In reaching this figure, we do not think that we should take into account deductions for outgoings made outside the relevant period but that we should take into account proper deductions - as shown in an affidavit sworn by the appellant - during the relevant period. Accordingly, we allow the appeal and substitute the figure of £1,700 in respect of count 1, or 2 months' imprisonment in default of payment; £1,700 in respect of count 2, or 2 months' imprisonment, consecutive, in default of payment; and £,1700 in respect of count 3, or 2 months' imprisonment, consecutive, in default of payment. Counts 4 and 5 will remain as before, making a total of £5,500. 5. Because the appellant has succeeded to this extent she shall have the costs of and incidental to this appeal. Authorities A. G. -v- Phillips (4 th May, 1990) Jersey Unreported. A. G. -v- Pennymore Investments (18 th October, 1985) Jersey Unreported. Page Last Updated: 19 Aug 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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